

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	
)	No. 22-cv-11773-DJC
v.)	
)	
DANIEL R. MAROLD, an individual d.b.a.)	
CHILL6,)	
)	
Defendant.)	
)	

UNITED STATES OF AMERICA'S MOTION ENTRY OF DEFAULT

In accordance with Fed. R. Civ. P. 55(a), the United States hereby submits this motion requesting that the clerk enter a default against the defendant, Daniel R. Marold, an individual doing business as Chill6, in the above captioned matter. The government contends a default is warranted in this case because Mr. Marold has failed to file a timely answer or responsive pleading to the government's Complaint and defend against the government's case. *See* Fed. R. Civ. P. 55(a) ("when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default").

The United States filed a Complaint, and an Amended Complaint, in this Court on October 17, 2022, seeking to permanently enjoin and restrain Mr. Marold from violating specific provisions of the Federal Food, Drug, and Cosmetic Act. *See* 21 U.S.C. §§ 331(a) & (d). The United States properly served the Amended Complaint and summons on him by FedEx on October 20 and Mr. Marold confirmed receipt. *See* Dkt. No. 10, Declaration of U.S. Dept. of Justice Trial Attorney Manu J. Sebastian and attached Exhibits A and B, and Fed. R. Civ. P.

4(e)(2)(B). In accordance with the Local Rules of the United States District Court for the District of Massachusetts, the United States returned the summons with proof of service within 90 days of filing the Amended Complaint and the summons. *See* L.R., D. Mass 4.1(a). Pursuant to Fed. R. Civ. P. 12(a)(1)(A)(i), Mr. Marold was required to serve an answer to the government's Amended Complaint by November 10, 2022 – 21 days after service.

More than 100 days have passed since the government served Mr. Marold with the Amended Complaint and summons. *See* Dkt. No. 10. In light of Mr. Marold's *pro se* status, and in good faith, the United States waited additional time, well beyond November 10, 2022, to determine whether he would file a response to the government's Amended Complaint, before filing this motion. To date, however, Mr. Marold has failed to make any appearance or file an answer or responsive pleading in this case. *See* Ex. 1, Copy of the Docket in *United States v. Daniel Marold, d/b/a Chill6*, 22-cv-11773-DJC. Accordingly, the government requests that the clerk enter a default against Mr. Marold in this case. *See United States v. Rogers*, No. 18-cv-40081-DHH, 2018 WL 6381149 (D. Mass. Oct. 22, 2018) (granting default under Fed. R. Civ. P. 55(a) because Rogers failed to file a responsive pleading or a notice of appearance by the deadline set by Fed. R. Civ. P. 12(a)(1)(A)(i)).

CONCLUSION

For the reasons set forth above, the government requests that the clerk enter a default against Mr. Marold under Fed. R. Civ. P. 55(a).

Dated: February 17, 2023

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney
General

ARUN G. RAO
Deputy Assistant Attorney General
AMANDA LISKAMM
Acting Director
Consumer Protection Branch

MANU J. SEBASTIAN
Trial Attorney
Consumer Protection Branch
Civil Division
U.S. Department of Justice
450 5th Street, N.W.
Washington, DC 20530
Phone: (202) 514-0515
manu.j.sebastian@usdoj.gov

Respectfully submitted,

RACHAEL S. ROLLINS
UNITED STATES ATTORNEY

By its attorney,

/s/ Steven T. Sharobem
STEVEN T. SHAROBEM
Assistant United States Attorney
John Joseph Moakley Courthouse
One Courthouse Way, Suite 9200
Boston, MA 02210
Phone: (617) 748-3355
steven.sharobem@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that, on this 17th, day of February, 2023, the foregoing document, filed through the ECF system, will be sent via e-mail and certified mail to the defendant:

Daniel R. Marold
26 Valley Forge Circle
West Boylston, MA 01583
Dan28jam@hotmail.com

/s/ Steven T. Sharobem

Steven T. Sharobem